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ADMITTED TO PRACTICE IN:  
ARIZONA, COLORADO, MONTANA,  
NEVADA, TEXAS, WYOMING,  
DISTRICT OF COLUMBIA

February 4, 2008

Arizona Corporation Commission  
**DOCKETED**

FEB - 4 2008

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

DOCKETED BY	
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Re: In The Matter Of The Consideration, Pursuant To  
A.R.S. § 40-252, To Modify Decision No. 67744 Relating  
To The Self-Build Option.

Docket No. E-01345A-07-0420

To Whom It May Concern:

Enclosed for filing in the above-referenced docket are fourteen (14) copies of the prepared Rebuttal Testimony Of Theodore E. Roberts. ("Testimony") on behalf of Mesquite Power, L.L.C., Southwestern Power Group II, L.L.C. and Bowie Power Station, L.L.C. ("Mesquite/SWPG/Bowie").

Thank you for your assistance with regard to this matter.

Sincerely,

Lawrence V. Robertson, Jr.

cc: All Parties

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**REBUTTAL TESTIMONY  
OF  
THEODORE E. ROBERTS  
DOCKET NO. E-01345A-07-0420**

**Q.1 Please state your name and business affiliation.**

A.1 My name is Theodore E. Roberts. I am employed by Sempra Energy as Senior Regulatory Counsel.

**Q.2 On whose behalf are you testifying, and are you the same Theodore E. Roberts that sponsored Direct Testimony in this proceeding?**

A.2 Yes, I am. I am providing testimony on behalf of Mesquite Power, L.L.C., Southwestern Power Group II, L.L.C. and Bowie Power Station, L.L.C. ("Mesquite/SWPG/Bowie").

**Q.3 Please summarize the rebuttal testimony that you are providing on behalf of Mesquite/SWPG/Bowie in this proceeding?**

A.3 Mesquite/SWPG/Bowie are responding to the Direct Testimony filed by Patrick Dinkel on behalf of Arizona Public Service Company ("APS") and by Commission Staff witness Barbara Keene.

**Q.4 Please summarize your rebuttal testimony.**

A.4 The testimony of APS and Staff both appear to implicitly assume that the Recommended Best Practices for Procurement that were discussed in my direct testimony are applicable to APS' electric procurement during the period of the self-build moratorium, as I advocated in my direct testimony. In that regard, APS has requested that specified timelines apply to the Commission's consideration of any future request for authorization to self-build, subject to certain conditions, and APS' request seems reasonable. In addition, Staff acknowledged while utility compliance with its Recommended Best Practices for Procurement is currently voluntary, such compliance "could become mandatory" if the Recommended Best Practices were incorporated into the Commission's rulemaking on Resource Planning that is currently underway. Mesquite/Bowie/SWPG believe that the Recommended Best Practices should be made mandatory for APS for the duration of the self-build moratorium, and further believe that should be the case regardless of whether or not the same are also mandated for all utilities under future resource planning rules.

**Q.5 Why do Mesquite/SWPG/Bowie believe that APS's request for a specific timeline applicable to the Commission's consideration of any future request for authorization to self-build is reasonable?**

1 A.5 As was demonstrated in the Commission's consideration of the APS self-build request in  
2 Docket No. E-01345A-06-0464, the passage of time adds uncertainty to the pricing of a  
3 proposed power purchase agreement or power plant acquisition because the supply of  
4 labor and materials is in a constant state of flux, particularly with items such as turbines  
5 for which there is a high demand and a long lead time. That uncertainty affects the price  
6 a bidder is willing to offer and ultimately directly impacts consumers in the prices that  
7 APS pays for resources. In order to provide consumers the greatest protection and for  
8 APS to have the greatest certainty in contracting, expeditious resolution of any self-build  
9 authorization request would be important. Of even greater importance to  
10 Mesquite/SWPG/Bowie, APS' direct testimony explicitly acknowledges and  
11 encompasses the right of "an intervening bidder" to challenge the fairness of APS'  
12 conduct of any solicitation that resulted in a self-build authorization request being  
13 presented to the Commission. Such recognition of rights goes a long way to addressing  
14 the concerns raised by Mesquite/SWPG/Bowie and other parties in Docket No. E-  
15 01345A-06-0464. However, Mesquite/SWPG/Bowie would add that, for the duration of  
16 the self-build moratorium, that recognition of rights should be extended to any party to  
17 the Settlement who has a legitimate concern with APS' adherence to the terms of the  
18 Settlement, and not be limited only to bidders in the solicitation. With that caveat,  
19 Mesquite/SWPG/Bowie believe that APS' request for a specific timetable is reasonable,  
20 and its proposed timetables appear reasonable, although we ultimately defer to the  
21 Commission as to the specific timeframe adopted.

22 **Q.6 What is Mesquite/SWPG/Bowie's reaction to the Staff's position regarding the Best**  
23 **Practices for Utility Procurement?**

24 A.6 Mesquite/SWPG/Bowie believe, as stated in my direct testimony, that the Commission  
25 should go further than what the Staff testimony suggests. Specifically, Staff indicated  
26 that the Commission should make no changes to the Settlement or Decision No. 67744  
27 because APS' will be scrutinized in its procurement practices and may suffer in future  
28 prudence reviews if it does not follow the Recommended Best Practices. Without  
restating my direct testimony, for all of the reasons offered there, Mesquite/SWPG/Bowie  
believe that the Recommended Best Practices should be overlaid onto Paragraphs 75(b)  
and 75(d) of the Settlement and Decision No. 67744 so that they control APS'  
procurement practices. Such overlay would help to unify the Settlement and self-build  
moratorium with the procurement workshops and the ongoing Rulemaking on Resource  
Planning, if the Recommended Best Practices are also made mandatory there, as Staff  
alluded to in its testimony. Moreover, adopting Mesquite/SWPG/Bowie's  
recommendation in this manner will benefit APS by reducing its exposure to potential  
disallowance resulting from a subsequent prudence review.

29 **Q.7 Do you have anything else to add?**

30 A.7 I would only add that Mesquite/SWPG/Bowie are pleased to see that Staff, APS and  
Mesquite/SWPG/Bowie seem to be largely in agreement as to the applicability of the  
Recommended Best Practices for Utility Procurement to APS's obligations under the self-

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1 build moratorium provisions of the Settlement and Decision No. 67744. Explicit  
2 recognition of this agreement and integration of the Recommended Best Practices into the  
3 Settlement and Decision No. 67744 as we have advocated stands to benefit all parties.

4 **Q.8 Does that complete your Rebuttal Testimony?**

5 **A.8** Yes, it does.  
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## RESPONSIBILITY MATRIX

Task	Primary Responsibility	Secondary Responsibility	Comments
Executed Resolution Agreement	Development Group		Completed
Site Selection including preliminary geotech survey and ALTA survey	Development Group	EPC Group	The surveys are for purposes of site selection only and are more fatal flaw reviews then anything else. They may not require field investigations. They should not be confused with the surveys that are required for detailed design.
Executed Site Real Estate Agreement	Development Group	EPC Group	Allowing unrestricted access, water rights, and easements defined
Executed Transmission Interconnection Agreement	Development Group	EPC Group	Including any impact study, facilities study etc
Environmental Permits	Development Group	EPC Group	Permits for both Solar and Biomass: Conditional Use, Air, WDR Permit, Clean water, Letter of Acceptance, Executed Streambed Alternative Agreement (if applicable), Storm Water Permit, Permit To Construct, Fuel Supply Testing, Etc. Does not include building permit. This work should be conducted by the "environmental permitting" firm who may or may not be the same as the detailed design firm.
Executed Fuel Supply Agreement	Development Group	EPC Group	For biomass system
Preliminary Design	Development Group	EPC Group	Completed
Capital Cost Estimate			<i>Joint Responsibility</i>
Executed Power Purchase Agreement	Development Group	EPC Group	

Construction Financing	Development Group		Equity and debt, if any
All process and detailed engineering	EPC Group		Development Group to be kept abreast of detailed design
All Major Equipment Purchases	EPC Group	Development Group	Development Group will finalize SNM STG contract with input from EPC Group. EPC group will finalize other ATC purchases based on previous commitments made by Development Group.
All Subcontracts	EPC Group		